

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0260.01 Jerry Barry x4341

SENATE BILL 19-072

SENATE SPONSORSHIP

Holbert,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING ESTABLISHING A BILL OF RIGHTS FOR PERSONS**
102 **PROTECTED THROUGH A GUARDIANSHIP.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes a bill of rights for persons who are protected through a legal guardianship relationship.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1.** In Colorado Revised Statutes, **add** 15-14-320 as
2 follows:

3 **15-14-320. Bill of rights for persons protected under**
4 **guardianship - definition.** (1) EXCEPT AS OTHERWISE PROVIDED BY LAW,
5 EACH PROPOSED PROTECTED PERSON HAS THE RIGHT TO HAVE AN
6 ATTORNEY TO ASK THE COURT FOR RELIEF BEFORE A GUARDIANSHIP IS
7 IMPOSED. EACH PROTECTED PERSON HAS THE FURTHER RIGHT TO:

8 (a) HAVE AN ATTORNEY AT ANY TIME DURING A GUARDIANSHIP TO
9 ASK THE COURT FOR RELIEF;

10 (b) RECEIVE NOTICE OF ALL GUARDIANSHIP PROCEEDINGS AND ALL
11 PROCEEDINGS RELATING TO A DETERMINATION OF CAPACITY, UNLESS THE
12 COURT DETERMINES THAT THE PROTECTED PERSON LACKS THE CAPACITY
13 TO COMPREHEND SUCH NOTICE;

14 (c) RECEIVE A COPY OF ALL DOCUMENTS FILED IN A GUARDIANSHIP
15 PROCEEDING;

16 (d) HAVE A FAMILY MEMBER, AN INTERESTED PARTY, OR A
17 MEDICAL PROVIDER SPEAK OR RAISE ANY ISSUES OF CONCERN ON THE
18 PROTECTED PERSON'S BEHALF DURING A COURT HEARING, EITHER ORALLY
19 OR IN WRITING. THIS INCLUDES BUT IS NOT LIMITED TO ISSUES RELATING
20 TO A CONFLICT WITH A GUARDIAN.

21 (e) BE EDUCATED ABOUT GUARDIANSHIPS AND ASK QUESTIONS
22 AND EXPRESS CONCERNS AND COMPLAINTS, EITHER ORALLY OR IN
23 WRITING, ABOUT THE PROTECTED PERSON'S GUARDIAN AND THE
24 GUARDIAN'S ACTIONS;

25 (f) PARTICIPATE IN DEVELOPING A PLAN FOR HIS OR HER CARE,
26 INCLUDING BUT NOT LIMITED TO A PLAN FOR MANAGING HIS OR HER
27 ASSETS AND PERSONAL PROPERTY, DETERMINING HIS OR HER RESIDENCE,

1 AND DETERMINING THE MANNER IN WHICH HE OR SHE RECEIVES SERVICES;

2 (g) BE GIVEN DUE CONSIDERATION TO HIS OR HER CURRENT AND
3 PREVIOUSLY STATED PERSONAL DESIRES, PREFERENCES FOR HEALTH CARE
4 AND MEDICAL TREATMENT, AND RELIGIOUS AND MORAL BELIEFS;

5 (h) REMAIN AS INDEPENDENT AS POSSIBLE, INCLUDING BUT NOT
6 LIMITED TO HAVING HIS OR HER PREFERENCES HONORED REGARDING
7 RESIDENCE AND STANDARD OF LIVING, EITHER AS EXPRESSED OR
8 DEMONSTRATED BEFORE A DETERMINATION WAS MADE RELATING TO
9 CAPACITY OR AS CURRENTLY EXPRESSED IF SUCH PREFERENCE IS
10 REASONABLE UNDER THE CIRCUMSTANCES;

11 (i) BE GRANTED THE GREATEST DEGREE OF FREEDOM POSSIBLE,
12 CONSISTENT WITH THE REASONS FOR GUARDIANSHIP, AND EXERCISE
13 CONTROL OF ALL ASPECTS OF HIS OR HER LIFE THAT ARE NOT SPECIFICALLY
14 DELEGATED TO A GUARDIAN BY A COURT ORDER;

15 (j) ENGAGE IN ANY ACTIVITY THAT THE COURT HAS NOT
16 EXPRESSLY RESERVED FOR HIS OR HER GUARDIAN, INCLUDING BUT NOT
17 LIMITED TO VOTING, MARRYING OR ENTERING INTO A CIVIL UNION,
18 TRAVELING, WORKING, AND HAVING A DRIVER'S LICENSE;

19 (k) BE TREATED WITH RESPECT AND DIGNITY BY HIS OR HER
20 GUARDIAN;

21 (l) BE TREATED FAIRLY BY HIS OR HER GUARDIAN;

22 (m) MAINTAIN PRIVACY AND CONFIDENTIALITY IN PERSONAL
23 MATTERS;

24 (n) RECEIVE TELEPHONE CALLS AND PERSONAL MAIL AND HAVE
25 VISITORS, UNLESS HIS OR HER GUARDIAN AND THE COURT DETERMINE
26 THAT PARTICULAR CORRESPONDENCE OR A PARTICULAR VISITOR WILL
27 HARM THE PROTECTED PERSON;

1 (o) RECEIVE TIMELY, EFFECTIVE, AND APPROPRIATE HEALTH CARE
2 AND MEDICAL TREATMENT THAT DOES NOT VIOLATE HIS OR HER RIGHTS;

3 (p) HAVE ALL SERVICES PROVIDED BY A GUARDIAN AT A
4 REASONABLE RATE OF COMPENSATION AND HAVE A COURT REVIEW ANY
5 REQUESTS FOR PAYMENT TO AVOID EXCESSIVE OR UNNECESSARY FEES OR
6 DUPLICATE BILLING;

7 (q) RECEIVE PRUDENT FINANCIAL MANAGEMENT OF HIS OR HER
8 PROPERTY AND ASSETS, INCLUDING BUT NOT LIMITED TO REGULAR
9 DETAILED REPORTS OF FINANCIAL ACCOUNTING, REPORTS ON ANY
10 INVESTMENTS OR TRUSTS THAT ARE HELD FOR HIS OR HER BENEFIT, AND
11 A REPORTING OF ANY EXPENDITURES OR FEES CHARGED TO HIS OR HER
12 ESTATE;

13 (r) RECEIVE AND CONTROL HIS OR HER SALARY, MAINTAIN A BANK
14 ACCOUNT, AND MANAGE HIS OR HER PERSONAL MONEY; AND

15 (s) ASK THE COURT TO:

16 (I) REVIEW THE GUARDIAN'S MANAGEMENT ACTIVITY IF A DISPUTE
17 CANNOT BE RESOLVED;

18 (II) CONTINUALLY REVIEW THE NEED FOR A GUARDIANSHIP OR
19 MODIFY OR TERMINATE A GUARDIANSHIP;

20 (III) REPLACE HIS OR HER GUARDIAN; OR

21 (IV) ENTER AN ORDER RESTORING HIS OR HER CAPACITY AT THE
22 EARLIEST POSSIBLE TIME.

23 (2) A PROTECTED PERSON'S RIGHTS, AS SET FORTH IN SUBSECTION
24 (1) OF THIS SECTION, DO NOT ABROGATE ANY REMEDIES PROVIDED BY
25 LAW. ALL SUCH RIGHTS MAY BE ADDRESSED IN A GUARDIANSHIP
26 PROCEEDING OR BE ENFORCED THROUGH A PRIVATE RIGHT OF ACTION.

27 (3) TO FACILITATE AWARENESS OF THIS BILL OF RIGHTS FOR

1 PROTECTED PERSONS, EACH COURT OF THE STATE SHALL:

2 (a) MAKE THE BILL OF RIGHTS FOR PROTECTED PERSONS READILY
3 AVAILABLE TO THE PUBLIC;

4 (b) MAINTAIN A COPY OF THE BILL OF RIGHTS FOR PROTECTED
5 PERSONS IN THE COURT FOR REPRODUCTION AND DISTRIBUTION TO THE
6 PUBLIC; AND

7 (c) ENSURE THAT THE BILL OF RIGHTS FOR PROTECTED PERSONS IS
8 POSTED:

9 (I) IN A CONSPICUOUS PLACE, IN AT LEAST TWELVE-POINT TYPE, IN
10 THE COURTROOM; AND

11 (II) ON THE COURT'S WEBSITE.

12 (4) FOR THE PURPOSES OF THIS SECTION, "PROTECTED PERSON"
13 MEANS A PERSON FOR WHOM A GUARDIAN HAS BEEN APPOINTED.

14 **SECTION 2. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2020 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.